



NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON, D.C. 20570

FOR IMMEDIATE RELEASE
Monday, June 12, 1995

(R-2080)
202/273-1991

FEDERAL COURT IN SAN FRANCISCO GRANTS NLRB PETITION FOR INJUNCTION AT BUON TASTO SAUSAGE CO., INC.

National Labor Relations Board General Counsel Fred Feinstein today announced that the NLRB has obtained a temporary injunction from a federal district court in California against Buon Tasto Sausage Co. of Redwood City, California. The court order, issued pursuant to Section 10(j) of the National Labor Relations Act, requires, among other things, that the company offer interim reinstatement to approximately 14 workers at the wages and benefits they enjoyed prior to being laid off.

The case involves Buon Tasto's alleged refusal to supply to United Food and Commercial Workers Union Local 101 during collective bargaining negotiations requested information necessary to substantiate Buon Tasto's claim that it needed economic concessions to remain competitive, and Buon Tasto's declaration of impasse at a time when the parties allegedly had not reached a good faith impasse in bargaining for a labor contract. Subsequent to the declaration of impasse in November 1994, Buon Tasto lowered wages, ceased making payments into the contractually agreed-upon health and welfare and pension funds, and changed other terms and conditions of employment. Thereafter, Buon Tasto laid off the bargaining unit employees and subcontracted out bargaining unit work.

In addition to ordering the company to offer interim reinstatement to the employees, the injunction requires Buon Tasto to restore, upon request of UFCW Local 101, the contractual terms and conditions of employment that the company changed and to apply the terms of the collective-bargaining agreement that expired on October 31, 1994. The injunction specifically requires that Buon Tasto offer interim job reinstatement at the restored terms and conditions of employment to all of the bargaining unit employees who had been terminated by being laid off and rescind the subcontracting of bargaining unit work. The company also was ordered, upon request, to supply requested information to UFCW Local 101 and to bargain in good faith with the union for a new collective-bargaining agreement.

U.S. District Judge Fern Smith, of the Northern District of California, issued her order on June 2, 1995, pursuant to Section 10(j) of the National Labor Relations Act, which authorizes federal district courts to grant temporary relief to maintain or restore the lawful status quo pending the Board's adjudication of unfair labor practices. NLRB General Counsel Fred Feinstein

has placed a priority on identifying potential injunction cases and processing them expeditiously at all stages.

General Counsel Feinstein commented as follows:

"I am very pleased with the court's decision. It provides for the immediate reinstatement of the laid-off employees at their prior wages and benefits, and the restoration of contractual conditions of employment. This allows the collective-bargaining process to continue while the underlying unfair labor practice case is decided and will serve to benefit the parties and the affected employees."

In issuing the requested injunction, Judge Smith found that the Board had shown a likelihood of success in establishing that Buon Tasto had violated Section 8 (a)(1), (3) and (5) of the National Labor Relations Act and that injunctive relief was warranted to prevent irreparable injury to the public interest. Specifically, Judge Smith held that even though Buon Tasto was not claiming an inability to pay the union's economic demands, it still needed to provide requested information to substantiate its claims that it needed economic concessions to remain competitive. Otherwise, Judge Smith found, "an employer, simply by raising a competitiveness argument, would be able to dodge the requirement that it substantiate claims made during the bargaining process." The Court further concluded that the Board was likely to prevail on its claims that Buon Tasto had "prematurely ceased negotiations and laid-off the union employees before the parties had reached a good-faith impasse."

The five-member National Labor Relations Board, acting upon the recommendation of General Counsel Feinstein, authorized Region 20 Regional Director Robert H. Miller to seek the injunction. This followed the Region's investigation into Buon Tasto's alleged unfair labor practices and the issuance of an administrative complaint on April 12, 1995, which placed these allegations before the Board for decision. The trial on these allegations is scheduled to be heard by an Administrative Law Judge of the Board on July 11, 1995, in San Francisco, California.

General Counsel Feinstein commented further:

"This case represents a very fine team effort by employees of Region 20. I join with Director Miller in commending the fine investigative work by Field Examiner Harvey Dasho under the supervision of Supervisory Attorney Mark Berman, the fine legal work and district court argument by Field Attorney Paula Katz and additional legal work by Field Attorneys Margaret Dietz and Marilyn O'Rourke. Recognition is also extended to Regional Attorney Joe Norelli and Deputy Regional Attorney Robert Buffin who supervised this 10(j) team. In addition, Deputy Regional Attorney Secretary Estelle Kirkendall and Secretary Roberta Schwartz are deserving of special attention for their roles in preparing the necessary papers."

#